



COMMONWEALTH of VIRGINIA

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VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO BLUE RIDGE SOLVENTS & COATINGS, INC. EPA ID No. VAR000503656

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455(C) and (F), between the Virginia Waste Management Board, and Blue Ridge Solvents & Coatings, Inc. for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Administrative Process Act" or "APA" means Chapter 40 (§ 2.2-4000 *et seq.*) of Title 2.2 of the Va. Code.
2. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
3. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.
4. "BRSC" means Blue Ridge Solvents & Coatings, Inc., a company authorized to do business in Virginia, and its affiliates, partners, subsidiaries, and parents. BRSC is a "person" within the meaning of Va. Code § 10.1-1400.

5. "CESQG" means a conditionally exempt small quantity generator of hazardous waste, a generator of less than 100 kilograms of hazardous waste in a month and meeting the other restrictions of 40 CFR § 261.5 and 9 VAC 20-80-120(A).
6. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
7. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
8. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
9. "Generator" means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.
10. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.
11. "LQG" means large quantity generator, a hazardous waste generator that generates 1,000 kilograms (2,200 pounds) or greater of hazardous waste in a calendar month and meets other restrictions (See 40 CFR § 262.34(a)-(b) and (g)-(l)).
12. "Manifest" means the shipping document EPA Form 8700-22 (including, if necessary, EPA Form 8700-22A), originated and signed by the generator or offeror in accordance with the instructions in the appendix to 40 CFR part 262 and the applicable requirements of 40 CFR parts 262 through 265.
13. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
14. "Order" means this document, also known as a Consent Order.
15. "Site" or "Facility" means the paint products manufacturing facility in Henry, Virginia that is owned and operated by Blue Ridge Solvents & Coatings, Inc.
16. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.
17. "Va. Code" means the Code of Virginia (1950), as amended.
18. "VAC" means the Virginia Administrative Code.

19. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.
20. "VHWMR" or "Regulations" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effective date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.

SECTION C: Findings of Fact and Conclusions of Law

1. BRSC owns and operates a paint products manufacturing facility in Henry, Virginia. BRSC also reclaims spent solvent from off-site sources for use in paint manufacturing. BRSC is also a transporter of hazardous waste and a RCRA-exempt recycling facility.
2. BRSC submitted a RCRA Subtitle C Site Identification form (received August 3, 2004) that gave notice of regulated waste activity as a CESQG and transporter of hazardous waste. BRSC was issued EPA ID No. VAR000503656 for the Facility. In a subsequent form (received November 1, 2004), BRSC gave notice as a LQG, transporter, and recycler of hazardous waste. In a form received on May 14, 2010, BRSC gave notice as a LQG, transporter and recycler of hazardous waste and also indicated that it receives hazardous waste from off-site.
3. At the Facility, BRSC generates spent solvents, which are a solid waste. The spent solvents generated by BRSC are also a hazardous waste – a F003 and F005 listed waste as described in 40 CFR § 261.31, and an ignitable characteristic waste (D001) as described in 40 CFR § 261.21. Spent solvents generated at BRSC may also be a toxic characteristic waste (D035) as described in 40 CFR § 261.24. This hazardous waste is accumulated in tanks and/or containers at the Facility after its generation.
4. On April 7, 2010, Department staff inspected the Facility for conformity with the requirements of the Virginia Waste Management Act and the Regulations. Based on the inspection and follow-up information, Department staff made the following observations:
 - a. BRSC stored spent solvents received from off-site generators prior to recycling;
 - b. BRSC was not always able to document the date each shipment of spent solvent from off-site generators was processed;
 - c. BRSC transported and received multiple shipments of spent solvent from Dominion Packaging without a hazardous waste manifest;
 - d. The Biennial Report for 2009 filed by BRSC was for some shipments inconsistent with the manifests maintained by BRSC;

- e. On some occasions, BRSC did not enter the Hazardous Waste Report Management Method code on the manifest when it was received at the Facility;
 - f. Training provided by BRSC in hazardous waste management requirements was not adequately documented.
5. Pursuant to 40 CFR § 261.6(c)(1), owners and operators of facilities that store recyclable materials before they are recycled are regulated under all applicable provisions of subparts A through L, AA, BB, and CC of parts 264 and 265, and under parts 124, 266, 268, and 270 of this chapter and the notification requirements under section 3010 or RCRA, except as provided in paragraph (a) of this section.
 6. Pursuant to 40 CFR § 261.6(c)(2)(ii), owners or operators of facilities that recycle recyclable materials without storing them before they are recycled are subject to Sections 265.71 and 265.72 (dealing with the use of the manifest and manifest discrepancies) of this chapter.
 7. Pursuant to 40 CFR § 263.20(a)(1), a transporter may not accept hazardous waste from a generator unless the transporter is also provided with a manifest signed in accordance with the requirements of § 262.23.
 8. Pursuant to 40 CFR § 265.71(a)(2)(v), if a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator or his/her agent must . . . retain at the facility a copy of each manifest for at least three years from the date of delivery.
 9. Pursuant to the Appendix to 40 CFR § 262 (Uniform Hazardous Waste Manifest and Instructions), the designated facility is required to enter the "Hazardous Waste Report Management Method Code" in Block 19 of the manifest.
 10. Pursuant to 40 CFR § 265.16, facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this part.
 11. On July 30, 2010, based on the inspection and follow-up information, the Department issued a NOV to BRSC for the violations described in paragraph 4 above.
 12. Representatives of DEQ and BRSC met on August 24, 2010 and December 17, 2010 to discuss the NOV. On September 20, 2010 and December 28, 2010, BRSC provided additional information about its waste management procedures and the issues raised by the NOV.
 13. BRSC has submitted documentation that verifies that the violations described in Paragraph 4, above, have been corrected.
 14. Based on the results of the April 7, 2010 inspection, the documentation BRSC provided to DEQ on September 20 and December 28, 2010, and information discussed during the August 24 and December 17, 2010 meetings between BRSC and DEQ, the Board

concludes that BRSC has violated VHWMR and the Virginia Waste Management Act, as noted above. More specifically, as noted above, the Board concludes that the BRSC has violated the following statutes or regulations: 40 CFR § 270(b), 40 CFR § 263.20(a)(1), 40 CFR § 265.71(a)(2)(v), the Appendix to 40 CFR § 262, and 40 CFR § 265.16.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455(C) and (F), the Board orders BRSC, and BRSC agrees to pay a civil charge of \$8,820.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

BRSC shall include its Federal Employer Identification Number (FEIN) (54-2060898) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of BRSC for good cause shown by BRSC, or on its own motion pursuant to the Administrative Process Act after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, BRSC admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. BRSC consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

5. BRSC declares that it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by BRSC to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. BRSC shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God; war, strike, or such other occurrence. BRSC shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. BRSC shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which BRSC intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

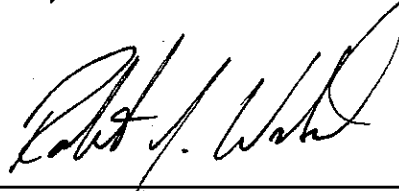
9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and BRSC. Nevertheless, BRSC agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - (a) BRSC petitions the Director or his designee to terminate the Order after he has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - (b) the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to BRSC.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve BRSC from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by BRSC and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of BRSC certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind BRSC to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of BRSC.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, BRSC voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 24th day of May, 2011.



Robert J. Weld, Regional Director
Department of Environmental Quality

Blue Ridge Solvents & Coatings, Inc. voluntarily agrees to the issuance of this Order.

Date: 3/31/11 By: George L. Quinlan c President
Blue Ridge Solvents & Coatings, Inc.

Commonwealth of Virginia

City/County of Franklin

The foregoing document was signed and acknowledged before me this 31st day of
March, 2011, by George L. Quinlan.



Notary Public

335164

Registration No.

My commission expires: 7/31/11

Notary seal:

